

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.251 of 2022

=====

Dost Mohammad S/o Oli Mohammad, R/o Village- Isuwapur, P.S.- Traiyan,
Distt.- Saran, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rakiya Khaton W/o Dost Mohammad, D/o Antullah Ansari R/o village-
Mahuli, Post- Abouthar, P.S.- Traiyan, Distt.- Saran, at present R/o Sutihar
Tole Juman, Post- Sutihar, P.S.- Derni, Distt.- Saran

... .. Respondent/s

=====

Appearance :

For the Petitioner	:	Mr. Md. Aslam Ansari
For the State	:	Mr. Jai Narain Thakur, APP
For the OP No. 2	:	Mr. Nawal Kishore Singh, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 18-02-2026

Heard learned counsel for the parties.

2. The present Criminal Revision petition has been filed against the order dated 22.02.2021 passed in Miscellaneous Case No. 8 of 2017, whereby and whereunder the order passed in Maintenance Case No. 94 of 2005 has been modified by learned Principal Judge, Family Court, Saran at Chapra, enhancing the maintenance amount to Rs. 6,300/- per month to be paid to the opposite party no. 2, starting from March, 2021.

3. Learned counsel for the petitioner submits that the impugned order is not maintainable as it has been passed against the guidelines issued by the Hon'ble Supreme Court from time to time. Though the learned Family Court assessed the income of the petitioner to be Rs. 12,600/-, it directed the petitioner to make



payment of Rs. 6,300/- per month to the opposite party no. 2, which is more than 50% of the assessed income of the petitioner.

4. The Hon'ble Supreme Court in the case of ***Kalyan Dey Chowdury v. Rita Dey Chowdhury Nee Nandy***, reported in ***(2017) 14 SCC 200***, wherein relying on ***Dr. Kulbhushan Kumar v. Raj Kumari & Anr.***, the Supreme Court held that 25% of the husband's net salary would be just and proper to be awarded as maintenance to the respondent wife. Therefore, the impugned order is not sustainable as the maintenance awarded is more than 50% of the assessed income.

5. Learned counsel appearing on behalf of opposite party no. 2 vehemently contends that there is no infirmity in the impugned order. He further submits that the direction of the Hon'ble Supreme Court regarding payment of 25% of amount is with regard to salary of a person and not to be assessed income as the learned Family Court calculated the income of the petitioner on the basis of minimum wages prescribed by the Government order. The petitioner is having much more than the said income as the petitioner has two wives and four children. The opposite party no. 2 is also having two children and the amount of Rs. 6,300/- by no stretch of imagination could be said to be excessive.

6. Learned counsel further submits that moreover, this order was passed in the year 2021 and since then, the expenses



have risen many manifold and cost of living has also increased. The petitioner has not been making any payment and the opposite party no. 2 has been facing serious hardships. He further submits that there is no infirmity in the impugned order and the same be sustained.

7. I have given my thoughtful consideration to the rival submissions made on behalf of the parties and perused the record.

8. From perusal of the record I find that *vide* order dated 23.12.2010, the petitioner was earlier directed to pay Rs. 2,000/- per month as maintenance allowance to the opposite party no. 2 from the date of filing of the case. This amount was thereafter, enhanced to Rs. 6,300/- per month *vide* impugned order dated 22.02.2021. Admittedly, the opposite party no. 2 is having two daughters. It also appears on the that so far as income of the petitioner is concerned, no documentary evidence has come on record, though statement on affidavit has been made regarding the income of the opposite party no. 2. The learned trial Court calculated the income of the petitioner on the basis of minimum wages, but the petitioner has admittedly solemnized two marriages. If the petitioner would not have any income, it was not possible for him to solemnize marriage twice. Therefore, the assessment of income of the petitioner by the learned Family



Court appears to be on the conservative side. The petitioner did not challenge the order earlier passed granting maintenance of Rs. 2,000/- per month to the opposite party no. 2 and this goes on to show that petitioner was having commensurate income to make payment of Rs. 2,000/- in the year 2010. It is quite natural that the income of the petitioner would have increased after 11 years and would not have remained the same. Therefore, there could be no strict application of 25% rule in the present case as that guideline is with regard to salaried person. In case where the income is not certain and there are various components of it, same principle would not have any strict application.

9. Therefore, I am of the considered opinion that the challenge to the order of the learned trial Court while relying on the guidelines issued by the Hon’ble Supreme Court in case of a salaried person is misconceived. Hence, I find no merit in the present revision petition and the same is dismissed.

(Arun Kumar Jha, J)

Shahnawaz/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	20.02.2026
Transmission Date	20.02.2026

